

# EXHIBIT 4

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NETJUMPER SOFTWARE, L.L.C.,  
a Michigan limited liability corporation,

Plaintiff,

Case No. 04-70366-CV  
Hon. Julian Abele Cook  
Magistrate Judge R. Steven Whalen

vs.

Case 2:04-cv-70366-JAC-RSW Document 54-10 Filed 09/27/2005 Page 2 of 2

GOOGLE INC.,  
a Delaware corporation,

Defendant.

SOMMERS SCHWARTZ, P.C.  
Andrew Kochanowski (P55117)  
Nabeel N. Hamameh (P60981)  
Attorneys For Plaintiff  
2000 Town Center, 9<sup>th</sup> Floor  
Southfield, MI 48075  
(248) 355-0300

BANIAK, PINE & GANNON  
Michael Baniak  
Co-Counsel For Plaintiff  
150 N. Wacker Drive, Suite 1200  
Chicago, IL 60606  
(312) 673-0360

DICKINSON WRIGHT, PLLC  
Kathleen A. Lang (P34695)  
L. Pahl Zinn (P57516)  
Attorneys For Defendant  
500 Woodward Ave., Ste. 4000  
Detroit, MI 48226  
(313) 223-3500

FISH & RICHARDSON P.C.  
Howard G. Pollack  
Attorneys For Defendant  
500 Arguello Street, Ste. 500  
Redwood City, CA 94063  
(650) 839-5070

FISH & RICHARDSON P.C.  
Frank E. Scherkenbach  
225 Franklin Street, Ste. 3100  
Boston, MA 02110-2804  
(617) 542-5070

**DECLARATION OF ANUP MATHUR**

I Anup Mathur under penalty of perjury do testify as follows:

1. I'm one of the named inventors on U.S. Patent No. 5,890,172. I was  
deposed on March 15, 2005 in connection with the above-captioned case.

2. I am 45 years old at the time of this Declaration. I have a Bachelors Degree in Technology from India Institute of Technology in Kanpur, India, from 1981. IIT Kanpur is one of the top technology institutes in India and is very well known for its computer science faculty. I studied computer graphics courses in 1980 and performed the first CAD-CAM software developed between 1981-1983. I then came to the United States for graduate studies in microprocessor design and use of lasers in software and embedded systems. I then returned to India in 1985 and worked on development of computer graphics, three dimensional software including surface modeling and solids modeling which related to Windows concepts, and all the computer graphics and user interface items now commonly in use. During the period of 1990 – 1992, I developed hypertext technology similar to the language now known as HTML, developed META language in which you can express textual, graphical and multimedia formatted content page which can be hyper linked to other similar pages. This software is similar to a present day browser viewer, and was developed based on hypertext technology that I defined at that time, developing new concepts beyond published research of the time on this topic.

3. I currently work for HCL America Inc., a multi-national company of approximately 24,000 employees which designs and develops software and systems for customers based on various software-related technologies. I've been with HCL in their American Operations continuously since 1992, with my current title being Project Director. My responsibilities since 1992 have include defining, designing, developing and guiding teams to deliver state of the art software technology projects to customers in the United States and rest of the world.

4. Among the chief projects I have been involved during my professional career, I actively developed software for approximately 13 years, from 1981-1994. This included hypertext software, wireless industry software, software relating to Adobe Photoshop, development of the Lotus 1-2-3 software, and similar projects. I have done various Internet-related projects for Sun Microsystems, a well known platform manufacturer and Internet driven business, in 1994, as being pioneer work in the Internet technology for enterprise.

5. I participated in much of the analytical and design work for the software that was developed in connection with the '172 and the '655 Patents. That software was initially called "Internet Buffet", and was later called "NetJumper." That project took place in 1996. I am well aware of the needs and requirements of software programming, and was certainly well versed in what could or could not be programmed in 1996.

6. I have been informed that in making its motion for summary judgment, Google said, "The inventors admitted, however, that at the time the patent was filed, they had neither the desire nor the ability to integrate their invention into the browser." (Google brief at p. 27). In fact, the citations to my testimony, and the testimony of Gilbert Borman and Rajat Bhatnagar cited by Google, as well as common sense, state exactly the opposite. In 1996, being very early days of the Internet, The browser providers including Microsoft and Netscape allowed the third party applications to operate in browser context for opening of different media files. Further technology at that time from Microsoft called OLE and DDE under Microsoft Windows and corresponding implementation of these into Netscape browser; allowed inter program

communication between two software applications which user wanted to exchange data across. Additionally, as early as 1993-1994, I was developing application programs that had tool bars which could trigger user actions. Using similar technologies, several different embodiments of the '172 and '655 patents were developed and demonstrated at that time in the context of a browser. This shows that inventors had both "desire and ability to integrate" the inventions of the '172 and '655 patents into a browser. To the contrary to Google's statement, had I been asked at my deposition how difficult it would have been to do so, I would have testified, and testify in this Declaration, that such software would have been straightforward to write for me with my specific background in hypertext as evidenced elsewhere in my deposition and this declaration. From an ability view point, we could, and even now can, develop a new browser from ground up or enhance existing browser software, or develop tool bar for browser, with the technology of '172 and '655 patents built into it. As evidenced by the patent specification in which we disclosed several embodiments of '172 and '655 patents to the navigational tools which can be generated in a browser toolbar, or a browser embedded toolbar modification, or a navigation window in the context of browser program but separate from browser window, such as what is now known as floating tool bar, or buttons and keyboard accelerator keys, all of these embodiments could be accomplished easily with common programming tools and languages. These embodiments were tested in the context of Yahoo search and directory services, the leading provider of such services at that time.

7. It shall further be noted that business model of HCL was to provide technology invention, creation and development services to Netjumper, and get paid through a

combination of low cash and mostly equity ( 30% ) based payment in Netjumper. I individually or through HCL was at no point of time responsible for business development of Netjumper products, although when asked I did from time to time provide guidance to Netjumper on merits of the new technology during the project.

FURTHER AFFIANT SAYETH NOT.

Case 2:04-cv-70366-JAC-RSW

Document 54-10

Filed 09/27/2005

Page 6 of 6

Anup Kumar Mathur  
Anup Mathur

Subscribed and sworn to before me  
This 26 day of September, 2005

\_\_\_\_\_